Case: 1:21-mj-00235
Assigned to: Judge Harvey, G. Michael
Assign Date: 2/16/2021
Description: COMPLAINT W/ARREST WARRANT

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I, [redacted], a Special Agent with the Federal Bureau of Investigation ("FBI"), Washington, D.C., being duly sworn, depose and state as follows:

AGENT BACKGROUND

1. Your affiant, [redacted], is a Special Agent assigned to the FBI Washington Field Office. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a Special Agent, I am authorized by law or by a Government agency to engage in or supervise the prevention, detention, investigation, or prosecution of a violation of Federal criminal laws.

2. The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification were allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

3. On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

4. As the proceedings continued in both the House and the Senate, and with Vice President Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

5. At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, shortly around 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

6. Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

7. During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

8. From January 8 – 13, 2021, the FBI received seven tips, either directly via the FBI tip line or those that were forwarded to the FBI from the Metropolitan Police Department, identifying Eric Gene BARBER's presence at the U.S. Capitol on January 6, 2021. Four tipsters identified BARBER as a former city councilman from Parkersburg, West Virginia (WV). One tipster identified BARBER's Facebook account as "eric.barber.399".

9. On January 8, 2021, Tipster #1 provided information stating that an individual on the FBI wanted list was possibly BARBER, a former councilman for the city of Parkersburg, WV. The tipster claimed BARBER did a live stream via Facebook showing he was at the Capitol. The tipster was unsure if BARBER was in the Capitol building. The tipster provided BARBER's Facebook account identified above.

10. Also on January 8, 2021, Tipster #2 provided information regarding a news publication on January 7, 2021, in Parkersburg, WV called The Parkersburg News and Sentinel that ran an article titled "Parkersburg man shares experience from the U.S. Capitol."[1] The article summarized an interview of Eric BARBER, "a former Parkersburg City Councilman," who provided a summary of his experience at the U.S. Capitol on January 6, 2021. The article included three photographs from BARBER, one which depicted individuals scaling a wall outside the Capitol (Image 1 below), a second showing protestors heading to what looks like a broken window at the Capitol (Image 2 below), and the third pictured protestors standing on the grounds immediately outside the Capitol (Image 3 below). These images were provided by BARBER from his Facebook account.

[1] https://www.newsandsentinel.com/news/local-news/2021/01/parkersburg-man-shares-experience-from-u-s-capitol/

Image 1

Image 2

Image 3

11. The article also references BARBER as providing the following account:

"[T]here were already people on the Capitol steps when he arrived. He said he went up the steps and saw some climbing the walls. Barber said he did not initially see Capitol Police officers cracking down on the advancing group. *"It took 'em a while before they started responding with force,"* he said. While he said he looked in a window and couldn't see much because of so many people inside, BARBER said he did not enter the building."[2]

12. BARBER did not show any pictures depicting himself in the Capitol.

13. On January 9, 2021, Tipster #3 highlighted an interview BARBER participated in on January 6, 2021, via phone with an NBC local affiliate WTAP. In the interview, which references BARBER as a former Parkersburg City Council member, BARBER states, " Those windows were being broken there was officers 15 feet away with their hands in their pocket just watching it..so..um..I think at any point Capitol Police could of stopped what was happening but just didn't."[3]

[2] https://www.newsandsentinel.com/news/local-news/2021/01/parkersburg-man-shares-experience-from-u-s-capitol/
[3] https://www.wtap.com/2021/01/07/fmr-parkersburg-city-councilman-capitol-police-did-little-to-stop-protestors/

14. Separately, on January 9, 2021, Tipster #4 provided a link to a Facebook post by Facebook Group: WoodCountyIndivisible in which the tipster notes the man "circled" wearing a green combat style helmet and a green military style field jacket is BARBER. This photograph was attributed to Twitter User 1. The photograph of BARBER included on the bottom right depicting BARBER in a white shirt with the Capitol in the background, is BARBER's Facebook profile photograph which was updated on December 30, 2020, according to BARBER's Facebook page (Image 4 below).

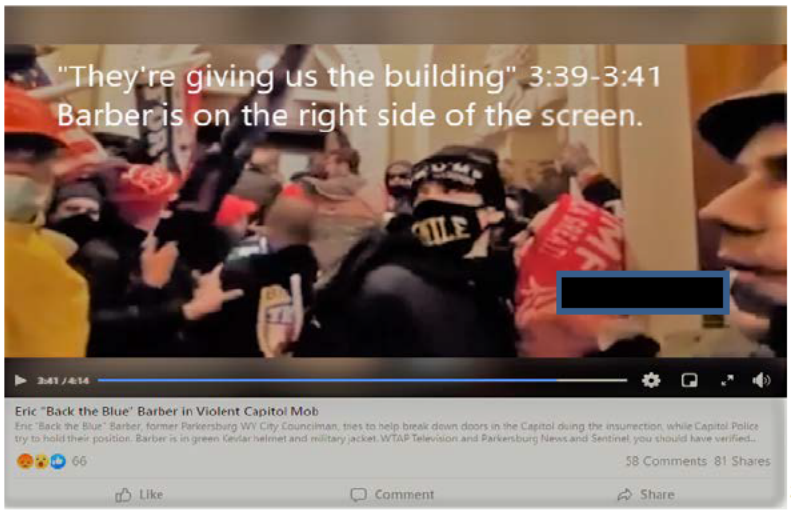
[4]

Image 4

15. Your affiant also reviewed a video highlighted by the Facebook group WoodCountyIndivisible posted on January 10, 2021. This video provides a timeline in which

[4] www.facebook.com/woodcountyindivisible/photos/pcb.2123127264484037

the individual believed to be BARBER is involved with numerous individuals attempting to enter an unidentified room in the Capitol. This video is only a small portion of a longer video, as the post directs viewers to a YouTube video titled "Shooting and Storming Of The US Capitol In Washington DC (View Discretion Is Advised)" posted by YouTube User 1. A screen capture from this video shows the individual in the green helmet, who is believed to be BARBER saying "They're giving us the building" (Image 5 below). Shortly after, BARBER smacks his helmet in an attempt to tell people he has a helmet and to let him forward. The video then shows BARBER attempting to make it further into the Capitol building where officers have barricaded or locked the door, see screen shot below (Image 6 below).



[5]

Image 5

[5] https://www.facebook.com/WoodCountyIndivisible/videos/?ref=page_internal

[6]

Image 6

16. Tipsters #5, #6, and #7 provided images of BARBER that had been previously identified by Tipster #4.

17. On or about January 11, 2021, your affiant conducted a review BARBER's Facebook account "eric.barber.399." During the review, I observed a photograph of BARBER as the account profile picture which was updated on December 30, 2020. This profile picture is consistent with the profile image provided by the tipster information identified above, see Image 4. Additionally, the Facebook profile indicated that BARBER lives in Parkersburg, WV and is employed as an HVAC technician. BARBER's Facebook account contains multiple posts pertaining to his previous position as a Parkersburg city council member, which is consistent with the claims made by the tipsters. Two screen captures below are from BARBER's Facebook account, posted on January 6 and 7, 2021 by BARBER, also depict pictures associated with BARBER entry on Capitol grounds (Image 7 and 8 below).

[6] https://www.facebook.com/WoodCountyIndivisible/videos/?ref=page_internal

[7]

Image 7

Image 8

18. BARBER's Facebook posts in images 7 and 8 were BARBER's last authored posts. However, on January 8, 2021, BARBER posted another Facebook user's, Facebook User 2's, comments to his public Facebook wall which seemed to justify the protestors action. In her post, Facebook User 2 stated, "It turns out, however, that there are two videos showing Capitol Police opening barricades, and standing by while plain clothes people are directing people forward." BARBER did not provide any public comments to Facebook User 2's post on his Facebook wall.

19. On January 28, 2021, an FBI Agent interviewed W-1 of the Parkersburg Police Department by phone. W-1 was familiar with the allegations that BARBER had entered the Capitol on January 6, 2021. W-1 indicated that the Parkersburg Police Department had received numerous reports from members of the public that included photographs and videos

[7] https://www.facebook.com/eric.barber.399

that showed BARBER inside the Capitol. W-1 acknowledged seeing the photographs and videos and recognized BARBER. In one specific photograph BARBER was circled in yellow (Image 9 below), W-1 stated he recognized the circled individual as BARBER.

Image 9

20. Your affiant reviewed database records which revealed photographs of BARBER that have consistent facial features and believe match the still image obtained from inside the Capitol (Image 10 below).

Image 10

21. Your affiant also requested CCTV footage from U.S. Capitol Police ("USCP") depicting the movement of the BARBER through the Capitol. The USCP returned six videos that showed BARBER moving through Statuary Hall and the Capitol Rotunda on January 6, 2021. Of note, I observed BARBER taking selfie photographs in the Rotunda (Image 11 below) and stopping at the C-SPAN media station located in Statuary Hall and searching through equipment that was on the stand (Image 12 below).

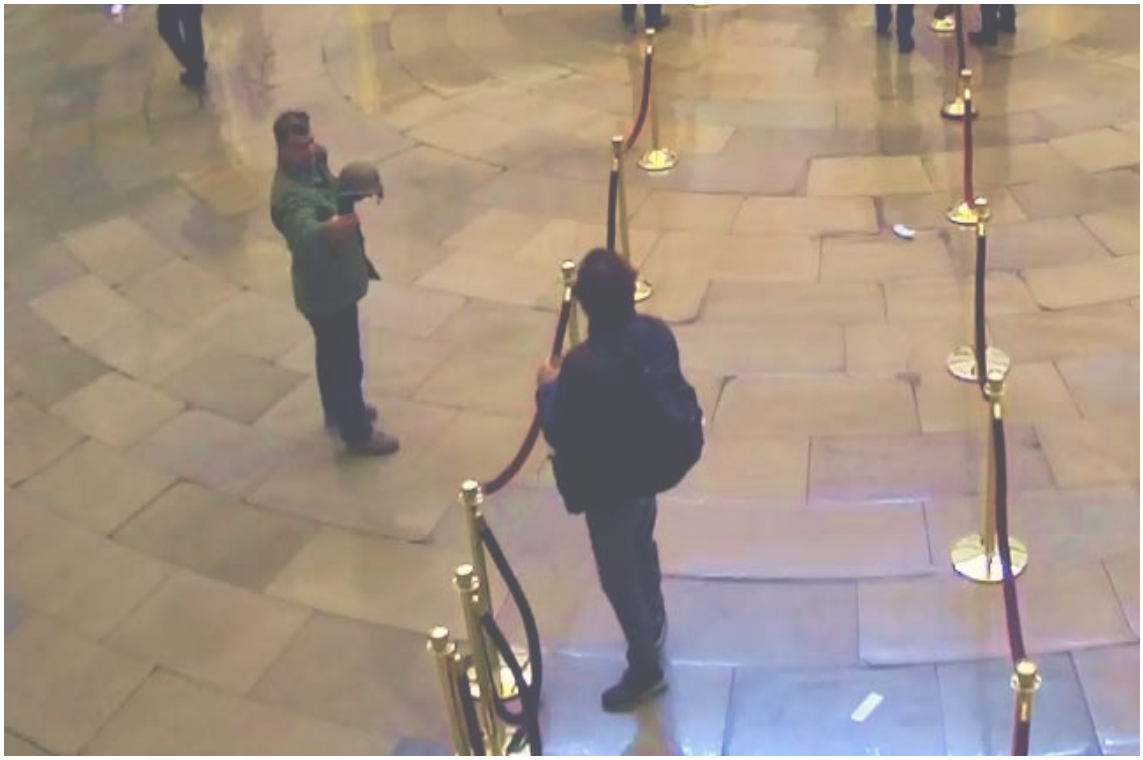


Image 11

Image 12

22. As seen in the USCP CCTV footage still photograph above, BARBER appears to be looking at an item at the C-SPAN media stand. This video clearly depicts BARBER searching through items at the media stand, before appearing to unplug something and take it with him. Based upon BARBER's activity at the stand, your affiant believed that BARBER took a portable powerstation from the media stand.

23. On February 1, 2021, your affiant determined the identity of the C-SPAN field service technician who was operating that media stand in the Statuary Hall at the time the Capitol was evacuated. Upon return to the media stand, the individual noted that two items were taken, one was a C-SPAN foldable stool and the other was the individual's personal

powerstation that was used to charge an IPAD. The individual noted that the powerstation was approximately $52.00. Your affiant believes this confirms the video footage that BARBER stole the powerstation located at the media station.

CONCLUSION

24. Based on the above factual allegations, I submit that probable cause exists to believe that ERIC GENE BARBER, has violated Title 18 U.S.C. § 1752(a)(1) and (2), Restricted Buildings or Grounds and Title 40 U.S.C. § 5104(e)(2)(D) and (G), Unlawful Activities on Capitol Grounds; Disorderly Conduct and demonstrating in the Capitol building; and D.C. Criminal Code Title 22 § 3212, Theft II.

[redacted]
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 16th day of February 2021.

Digitally signed by G. Michael Harvey
Date: 2021.02.16 12:45:06 -05'00'

G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE